

## SEQR DETERMINATION OF NO SIGNIFICANT EFFECT (DONSE)

NOTICE OF ENVIRONMENTAL DETERMINATION  
NEW YORK STATE DEPARTMENT OF TRANSPORTATION  
PROJECT IDENTIFICATION NO. 1935.49  
LIVINGSTON AVENUE BRIDGE REPLACEMENT PROJECT  
CITY OF ALBANY, ALBANY COUNTY AND CITY OF RENSELLAER, RENSSELAER COUNTY

### DETERMINATION

This notice is a “negative declaration” for the purposes of Article 8 of the New York State Environmental Conservation Law. The New York State Department of Transportation (NYSDOT), being the agency having principal responsibility for carrying out or approving the project within the State, is the lead agency pursuant to Part 15 of Title 17 of the Official Compilation of Codes, Rules and Regulations of New York State (17 NYCRR Part 15).

The bridge to be replaced, BIN 7092890, is a moveable rail bridge that spans the Hudson River between the cities of Albany and Rensselaer, providing a critical rail link on New York State’s Empire Corridor. The bridge is more than 100 years old and is nearing the end of its serviceable life. Its superstructure and substructure are in fair to poor condition, the mechanical portions of the swing span are significantly worn and require near constant maintenance to remain operable, the swing span frequently malfunctions, and the bridge does not meet current design standards related to load, speed, and horizontal and vertical clearance. The purpose of the project is to improve reliability and reduce passenger and freight train delays along this segment of the Empire Corridor; achieve (at a minimum) a long-term state-of-good-repair for the bridge; eliminate existing bridge and track deficiencies; and maintain or improve navigation near the bridge. This will ensure that the Livingston Avenue Bridge meets modern passenger and freight rail capacity and load (weight) standards, maintains acceptable levels of safety, and supports the long-term utility and vitality of the Empire Corridor. The project is essential to implementing future rail plans and improving state-wide rail transportation. The project will also provide recreational and transportation benefits for pedestrians and bicyclists by creating new access across the Hudson River, consistent with long-term plans to better connect the east and west shoreline communities along the Hudson River.

The project will replace the existing Livingston Avenue Bridge with a new moveable span rail bridge on an adjacent alignment approximately 50 feet south of the existing alignment. The new bridge will be a truss bridge with deck girder approach spans and a lift span over the navigation channel. It will have two tracks with 14-foot track centers and will meet both horizontal and vertical clearance standards. The navigational opening in the Hudson River will be 190 feet wide, with 60-foot-high vertical clearance when the bridge is in the open position. The project will also realign the wye (approach) tracks on the east side of the Hudson River in Rensselaer and reconfigure the approach tracks on the west side of the Hudson River in Albany.

The new bridge will include a shared use path for pedestrians and bicyclists running along the south side of the bridge, adjacent to the rail tracks.

The new bridge will be constructed adjacent to the existing Livingston Avenue Bridge and the existing bridge will be removed once the new bridge is put into service. Construction activities will be staged so as to minimize disruptions to rail traffic on the bridge and boat traffic in the river.

NYSDOT has determined that this project does not qualify to be a State Environmental Quality Review Act (SEQRA) Type II action in accordance with 17 NYCRR 15.14. An Environmental Assessment (EA) was prepared in accordance with 17 NYCRR 15.6(b). This project was also progressed as an Environmental

Assessment in accordance with the Federal Railroad Administration's (FRA) National Environmental Policy Act (NEPA) regulations in 23 Code of Federal Regulations (CFR) Part 771.

A Design Report/Environmental Assessment/Draft Section 4(f) Evaluation (DR/EA/4(f)) was prepared and circulated for review and comment on May 9, 2022. A Public Information Meeting and Public Hearing were conducted on May 31, 2022 virtually (through Zoom) and on June 1, 2022 in person at the Palace Theater, 19 Clinton Avenue, Albany, NY. Copies of the DR/EA/4(f) document were made available for review at the offices of Patrick Barnes, Regional Director, NYSDOT, 50 Wolf Road, Albany, NY; City of Albany City Hall, 24 Eagle Street, Albany, NY; and City of Rensselaer City Hall, 62 Washington Street, Rensselaer, NY; as well as on the project's website. Comments made during the public comment period for the DR/EA/4(f) document are summarized, and responses to the comments are provided, in an attachment to the FRA's NEPA Finding of No Significant Impact (FONSI) for the project. FRA reviewed the DR/EA/4(f) document and the comments received and responses to the comments and issued a FONSI for the project on October 31, 2022.

NYSDOT has determined that this project will not have a significant effect on the environment as set forth in 17 NYCRR Part 15.11. This determination is based on an assessment of the significance of likely consequences in connection with setting, probability of occurrence, its duration, irreversibility, geographic scope, magnitude, and the number of people affected, which led to the following findings and considerations. The project will not:

- Have a substantial adverse change in existing air quality, ground or surface water quality or quantity, traffic or noise levels; a substantial increase in solid waste production; a substantial increase in potential for erosion, flooding, leaching, or drainage problems.
  - A floodplain hydraulic analysis will be conducted during the advance detail plan phase.
- Remove or destroy large quantities of vegetation or fauna; substantially interfere with the movement of any resident or migratory fish or wildlife species; have impacts on a significant habitat area; substantial adverse effects on a threatened or endangered species of animal or plant of the habitat of such a species; or other significant adverse effects to natural resources.
- FRA and NYSDOT consulted with the National Marine Fisheries Service (NMFS) regarding Essential Fish Habitat (EFH) and threatened and endangered species and with the U.S. Fish and Wildlife Service (USFWS) regarding threatened and endangered species, birds protected under the Migratory Bird Treaty Act, and eagles protected under the Bald and Golden Eagle Protection Act. To avoid adverse effects during construction, prior to construction of the temporary pier (i.e., falsework), NYSDOT will undertake a survey of submerged aquatic vegetation and the pier will be installed so as to minimize the potential to affect submerged aquatic vegetation. NYSDOT will also follow timing restrictions for construction work in the Hudson River to protect spawning shortnose and Atlantic sturgeon and their eggs and larvae: no in-water construction will occur from March 1 through September 30 (work can occur during that period within the cofferdam cells already installed). NYSDOT will implement other construction best management practices developed in consultation with NMFS to reduce turbidity and noise due to in-water construction activities to minimize adverse impacts to sturgeon and anadromous fish. A mussel salvage/relocation will be completed before in-water work begins. All mussels found will be relocated as to avoid being impacted by construction equipment or sedimentation from construction. Tree clearing will occur only between November 1 and March 31 to avoid potential impacts to northern long-eared bats. In addition, the osprey nest on existing bridge will be removed in winter when it is inactive per NYSDEC and USFWS requirements.
- Encourage or attract a large number of people to a place or places for more than a few days, compared to the number of people who would come to such place absent the action.

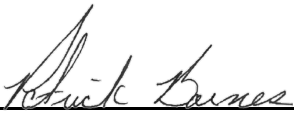
- Create a material conflict with a community's current plans or goals as officially approved or adopted.
  - The shared use path will connect to the planned Rensselaer Riverfront Multi-Use Trail and the Mohawk-Hudson Bike-Hike Trail in Albany, and NYSDOT will coordinate related to operation and maintenance of the shared use path during final design with the Cities of Rensselaer and Albany as well as CSX and Amtrak. NYSDOT will also coordinate with the City of Rensselaer regarding property within the area designated for the Kiliaen's Landing development.
- Impair the character or quality of important historical, archaeological, architectural, or aesthetic resources or of existing community or neighborhood character.
  - A Memorandum of Agreement (MOA) was prepared in accordance with Section 106 of the Historic Preservation Act and executed on August 31, 2022 by FRA, the New York State Historic Preservation Office (SHPO), and NYSDOT to mitigate the adverse effects of the project on the Livingston Avenue Bridge, which is eligible for listing on the National Register of Historic Places. The mitigation includes documenting the Livingston Avenue Bridge following Historic American Engineering Record standards; installing interpretive signage on both sides of the river; designing the new bridge as a truss bridge; incorporating key visual elements relating to the existing Livingston Avenue Bridge (the pulley housing and operator's building); and conducting an active marketing plan seeking new ownership of the existing Livingston Avenue Bridge for adaptive reuse, or, because of its overall size, partial reuse at a new location. The project will also involve modifications to the existing Albany Railroad Viaduct, which is eligible for listing on the National Register of Historic Places. FRA and NYSDOT concluded, and SHPO concurred in a letter dated September 23, 2020, that these changes will not constitute an adverse effect because the alterations will not change the characteristics that make the Albany Railroad Viaduct eligible as a National Register property.
- Result in a major change in the use of either the quantity or type of energy.
- Create a hazard to human health.
- Substantially change the use, or intensity of use, of land, including agricultural, open spaces or recreational resources, or the land's capacity to support existing uses.
- Create a material demand for other actions that will result in one of the above consequences.
- Result in changes in two or more elements of the environment, no one of which will have a significant effect on the environment, but when considered together will result in a substantial adverse effect on the environment.
- Involve two or more related actions directly undertaken, funded, or permitted by the NYSDOT, none of which will have a significant effect on the environment, but when considered cumulatively will meet one or more of the criteria in this section.

For the purpose of determining whether the project will cause one of the forgoing consequences, the Department considered reasonably related long-term, short-term, and cumulative effects, including other simultaneous or subsequent actions that are included in any long-range plan of which the action under consideration is a part, and likely to be undertaken as a result thereof or a dependent thereon (actions resulting from or dependent on this project).

NYSDOT has evaluated the project for consistency with the policies in the New York Coastal Management Program and the approved Rensselaer and Albany Local Waterfront Revitalization Programs and concluded that the replacement bridge under either Build Alternative would be consistent with all applicable coastal zone policies.

Additional information on this project may be obtained from:

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Rail Projects Group  
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Patrick Barnes, P.E.  
Regional Director

November 1, 2022

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Date